



# NEWS RELEASE

CALIFORNIA STATE TREASURER PHIL ANGELIDES

**FOR IMMEDIATE RELEASE**  
**June 30, 2003**

**Contact: Mitchel Benson**  
**(916) 653-4052**

## **CALIFORNIA, NEW YORK, FIVE OTHER STATES ISSUE SHAREHOLDER PROGRESS REPORT: SEC UNDER DONALDSON GETS AN 'INCOMPLETE' ON THREE CRUCIAL CORPORATE REFORMS**

*As SEC Acts on One Key Matter, Top State Investment Officers Urge Further Reforms  
To Protect Shareholders and Enhance Corporate Democracy*

**SACRAMENTO, CA** – As part of a continuing effort to broaden shareholder rights and enhance corporate democracy in the wake of widespread financial scandals, California State Treasurer Phil Angelides and the chief investment officers of six other states today called upon Securities and Exchange Commission (SEC) Chairman William Donaldson to move quickly to complete reforms on issues crucial to the protection of shareholders before the start of next year's proxy season.

California Treasurer Angelides, Connecticut Treasurer Denise Nappier, Kentucky Treasurer Jonathan Miller, Maine Treasurer Dale McCormick, New York State Comptroller Alan Hevesi, North Carolina Treasurer Richard H. Moore and Oregon Treasurer Randall Edwards issued a "progress report" that gave the SEC three grades of "incomplete" for unfinished work or failure to act on rules to democratize "management-controlled" corporate elections; to halt brokers' ability to stuff ballots for management; and to stop corporations from co-opting accounting firms with lucrative tax consulting contracts.

The release of the progress report comes as the SEC announced final rules on one matter significant to investors – granting shareholders the right to approve equity compensation packages. The progress report gives the SEC a grade of "complete" for today's action.

Angelides and the others acknowledged that Donaldson has been SEC chairman for a little more than 100 days. But they emphasized that it is important to put the chairman on notice that these shareholder concerns have languished for months or years, and that decisive action by Donaldson is imperative.

"This progress report focuses on areas critical to the protection of shareholder rights, where the SEC often has been slow to act," Angelides said. "The report is meant to shine a spotlight on issues of critical importance to shareholders, and to prompt swift action by the SEC to restore confidence in the marketplace. The following four areas are cited in the progress report:

- Excessive executive pay packages have been the source of some of the most blatant abuses in the marketplace in the recent past. It had been nearly a year since the New York Stock Exchange and the NASDAQ submitted rules to allow shareholders the right to approve virtually all equity compensation plans. The SEC acted just today to make the rules final.
- For a decade, shareholders have petitioned the SEC for new rules that strengthen their rights to fair corporate elections. In the absence of reforms, shareholders are still forced to wage costly proxy battles to nominate candidates for corporate boards, but management is allowed to campaign for its slate of candidates at company expense.
- Under other longstanding rules, stock exchange members often have been allowed to vote shareholder proxies if the shareholder has provided no instruction. This practice has been cited by some as a system that allows brokers who have corporate business relationships to “stuff the ballots” for management, to the detriment of shareholders.
- In January of this year, the SEC created a loophole when – in response to the requirements of the Sarbanes-Oxley Act of 2002 – it attempted to tighten rules for accountants who audit corporate books. The rules approved in January still allow corporate management to issue tax consulting contracts to their auditors and to set up tax shelters for companies and then certify that they are lawful when they perform their audits. The Public Company Accounting Oversight Board has reopened the issue but, to date, accounting firms may still perform tax services for their corporate clients.

"As good as the Sarbanes-Oxley Act is, we can't count on legislation alone to reform today's marketplace," said Jack Ehnes, chief executive officer of the California State Teachers' Retirement System, who also endorsed the progress report. CalSTRS is the nation's third largest public pension fund. "The SEC must build a strong regulatory framework," Ehnes added, "to meet the corporate governance needs of America's investors."

Angelides said he and the others “issued this progress report, with its three ‘incomplete’ grades, to focus the regulators’ attention on issues that for far too long have been sources of abuse to the detriment of shareholders and investors.” In light of “the corporate scandals of the past two years,” Angelides said, “the SEC needs to act swiftly to correct these problems.”

The state investment officers today were joined by, among others, Consumers Union and the Union of Needletrades, Industrial and Textile Employees (UNITE!), in endorsing the progress report.

Attachment: SEC Progress Report

# PROGRESS REPORT: THE SEC UNDER CHAIRMAN WILLIAM DONALDSON – UNFINISHED BUSINESS CRITICAL TO PROTECTING SHAREHOLDERS

SUBJECT	GRADE	COMMENT
SHAREHOLDER APPROVAL OF EXECUTIVE PAY	Complete	<p>For too long, shareholders have had little or no control over executive compensation packages, leading to egregious abuses by corporate executives at the expense of employees and shareholders.</p> <p>Almost eleven months ago, on August 1, 2002, the New York Stock Exchange and NASDAQ submitted rules to the SEC that would give shareholders the right to approve virtually all equity compensation plans, including stock options. The comment period on the proposed rules expired in November 2002. Today, nearly eight months later, the SEC finally has acted, adopting the rules – but only after allowing the most significant proxy season in history to pass without shareholders having a strong voice on one of the most critical corporate governance issues of our day.</p>
SHAREHOLDERS' RIGHTS TO FAIR ELECTIONS	Incomplete	<p>Over the course of the last decade, shareholders have urged the SEC to improve corporate democracy by adopting new rules strengthening shareholders' rights to fair elections. Currently, shareholders must launch costly proxy battles in order to nominate board candidates or force board consideration of an issue, while management recommends a proposal or slate of candidates and campaigns for it at company expense. Responding to shareholder pressure for more democratic corporate elections, the SEC will once again consider this issue and has asked its staff to provide recommendations by July 15, 2003, regarding reforms that would improve corporate democracy.</p>
"DE-FACTO" BALLOT STUFFING FOR MANAGEMENT	Incomplete	<p>Under longstanding rules, brokers have been allowed to vote shareholder proxies, in many circumstances, if the shareholder has provided no instruction. This has resulted in a "de-facto" system of ballot stuffing for management (by brokers who may have business relationships with corporate management) to the detriment of shareholders, especially on an issue of major importance – the election of directors – and other issues such as the ratification of auditors. Despite repeated requests by major shareholders, the SEC has failed to initiate reform of outdated rules that remain unfair to shareholders.</p>
AUDIT CONFLICTS	Incomplete	<p>The Sarbanes-Oxley Act of 2002 required the SEC to tighten rules for accountants who audit corporate books, but when it came time to act – in January 2003 – the SEC left a gaping loophole. Corporate management will still be able to co-opt their auditors with tax consulting contracts. Moreover, the SEC rules still allow auditors to set up tax shelters for companies, and then make a judgment that the shelter they have designed fits the rules. The Public Company Accounting Oversight Board has reopened the issue, but to date, accounting firms may still perform tax services for their corporate clients.</p>